

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

SEAN DIAS,

Plaintiff,

v.

WILLIAM AVILA, et al.,

Defendants.

Case No. 1:24-cv-00354-SAB

ORDER VACATING MAY 8, 2024  
HEARING ON DEFENDANT'S MOTION  
TO DISMISS

Defendants William Avila and Dominick Garay removed this action to the Eastern District of California from the Tulare County Superior Court on March 26, 2024. (ECF No. 1.) On March 27, 2024, Defendants filed a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 4.) The motion to dismiss was served on Plaintiff at his address of record on March 27, 2024. (Cert. of Service, ECF No. 4 at 3.) On April 15, 2024, Defendants filed a notice that no opposition to the motion to dismiss had been served. (ECF No. 5.)

Pursuant to the Local Rules of the Eastern District of California, Plaintiff's opposition to the motion to dismiss was due on April 15, 2024. L.R. 230(c). Plaintiff did not file a timely opposition to the motion. The Local Rule provides that a party who fails to file a timely opposition is not entitled to be heard in opposition to the motion at oral argument. L.R. 230(c). The hearing on this matter vacated and the matter is taken under submission and shall be decided

1 on the papers.

2 Accordingly, IT IS HEREBY ORDERED that the hearing on Defendants' motion to  
3 dismiss, set for May 8, 2024, is VACATED and the parties will not be required to appear at that  
4 time.

5  
6 IT IS SO ORDERED.

7 Dated: May 1, 2024

  
UNITED STATES MAGISTRATE JUDGE